

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ARTHUR J. CHAMBERS,

Plaintiff

v.

EMERITUS CORPORATION,

Defendant

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CIVIL ACTION NO. 4:10-cv-2775

DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION TO REMAND

COMES NOW, Emeritus Corporation, Defendant, and files its Response to Plaintiff's Motion to Remand and states:

Since the filing of Plaintiff's Motion to Remand, Plaintiff has agreed to enter into the attached Irrevocable Stipulation. *Ex. A.* With the Plaintiff's execution of this Irrevocable Stipulation, in which the Plaintiff stipulates that he will neither seek nor accept¹ any sum which would put his damages above the jurisdictional limit of this Court, Defendant consents to the remand of this case to state court.

¹ In the stipulation which is attached to Plaintiff's Motion to Remand, Plaintiff only agreed to not *seek* damages over the jurisdictional limit. It is Defendant's position that such a stipulation does not affect jurisdiction because it does not establish to a "legal certainty" that the amount in controversy is less than the jurisdictional minimum. However, as the Plaintiff has agreed to Defendant's proposed (and more stringent) Irrevocable Stipulation, Defendant will agree to consent to remand.

Respectfully submitted,

JACKSON LEWIS LLP
3811 Turtle Creek Boulevard, Suite 500
Dallas, Texas 75219
PH: (214) 520-2400
FX: (214) 520-2008

By: /s/ Rachel D. Ziolkowski
William L. Davis, Esq.
State Bar No. 05563800
Rachel D. Ziolkowski, Esq.
State Bar No. 24003234

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing pleading was electronically filed with the clerk for the U.S. District Court, Southern District of Texas on September 16, 2010, using the electronic case filing system of the court, and the electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means, as follows:

Raphaell V. Wilkins
The Wilkins Law Firm, P.C.
P.O. Box 88102
Houston, Texas 77288

/s/ Rachel D. Ziolkowski
ONE OF COUNSEL